

### **REMARKS**

This responds to the Final Office Action dated April 4, 2007 (hereinafter “the Office Action”) and the Advisory Action dated July 13, 2007 (hereinafter “the Advisory Action”).

Claims 1, 8, and 75 are currently amended, and claims 80-81 are added; as a result, claims 1-10, 12-14, and 73-81 are now pending in this application.

#### **§103 Rejection of the Claims**

Claims 1-14 and 70-75 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Dennis et al. (U.S. Patent No. 6,114,164, hereinafter “Dennis”) in view of Kofidis et al. (Journal of Thoracic and Cardio. Surg., hereinafter “Kofidis”), Farb et al. (U.S. Patent No. 6,048,722, hereinafter “Farb”), Bursac et al. (Am. J. Physiol. 277, hereinafter “Bursac”) and Terracio et al. (In Vitro Cell. And Develop Bio., hereinafter “Terracio”).

#### ***Claim 1***

Claim 1 has been amended to better describe the recited subject matter.

Applicant respectfully traverses the rejection and submits that the Office Action does not set forth a proper *prima facie* case of obviousness because the cited portions of Dennis, Kofidis, Farb, Bursac, and Terracio, individually or in combination, do not provide the claimed subject matter. For example, Applicant is unable to find in the cited portions of Dennis, Kofidis, Farb, Bursac, and Terracio, individually or in combination, among other things, a memory circuit including an instruction set for an automatic process of conditioning cells for administration into tissue of myocardium, the instruction set defining a predetermined sequence of electrical, mechanical, and biological stimuli, and a controller adapted to control the cardiac electrical stimulator, the myocardial stress simulator, and the biological treatment administration module by automatically executing the instruction set, as recited in claim 1.

As amended, claim 1 includes elements similar to those of claim 72, which has been canceled. Claim 72 was rejected in the Office Action on the ground that Dennis “discloses a user interface (52) that includes input device, memory and a display which allow manipulation of the conditions within the system”. The Advisory Action further states:

In this case, the reference of Dennis et al. discloses a controller and user interface (52) that includes input devices, memory and display which allow manipulation of the conditions within the system. The additional references as discussed in the rejection of record provide the motivation for controlling the different stimulation devices for emulating the conditions found in vivo. As a result, an apparatus programming as suggested in the rejection of record would meet the memory circuit limitations of amended claim 1 (canceled claim 72).

Applicant respectfully traverses these assertions. Claim 1 does not merely recite a memory circuit and a controller for “controlling the different stimulation devices for emulating the conditions found in vivo”. Neither the Office Action nor the Advisory Action indicates how the cited references provide a memory circuit including, and a controller automatically executing, an instruction set defining a predetermined sequence of electrical, mechanical, and biological stimuli as recited in claim 1.

Applicant respectfully requests reconsideration and allowance of claim 1.

#### *Claim 2-14 and 70-75*

Claims 11 and 70-72 were canceled in the Amendment and Response filed on July 2, 2007. Their elements were included in claim 1 by previous and current amendments.

Applicant respectfully traverses the rejection. Claims 2-10, 12-14, and 73-75 are dependent on claim 1, which is believed to be allowable for at least the reasons set forth above. Therefore, the discussion above for claim 1 is incorporated herein to support the patentability of claims 2-10, 12-14, and 73-75.

Applicant respectfully requests reconsideration and allowance of claims 2-10, 12-14, and 73-75.

#### *New Claims*

New claims 76-79 were added in the Amendment and Response filed on July 2, 2007, and new claims 80-81 are currently added. Support for these new claims are found, for example, in page 16, lines 19-22; page 33, line 29 to page 34, line 5; page 58, lines 28 to page 59, line 2; and page 59, lines 5-10. Applicant believes that no new matter is added and that the new claims are appropriate for consideration in the present application.

Applicant respectfully requests consideration and allowance of claims 76-81.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612) 373-6965 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 17 day of December 2007.

KATE GILSON

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Signature